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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,895	03/24/2004	Eduardo Ramirez de Arellano	LOSAS-0600	5350

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EXAMINER	
HORTON, YVONNE MICHELE	

ART UNIT	PAPER NUMBER
3635	

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/807,895	RAMIREZ DE ARELLANO, EDUARDO	
	Examiner	Art Unit	
	Yvonne M. Horton	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,833,188 to SEMMENS in view of US Patent #6,880,198 to HAZARD. In reference to claims 1 and 8, SEMMENS discloses the method of applying concrete to a building including the steps of mixing water and concrete having grains with an approximate diameter of one millimeter, column 1, lines 49-50 and column 2, lines 23-27; applying the concrete; and allowing the concrete to dry. SEMMENS discloses the basic claimed invention except for the step of scraping a trowel to remove particles of an exterior surface of the concrete to thereby form voids therein. HAZARD teaches that it is known in the art at the time the invention was made to scrape a trowel, column 1, line 32-33, to form voids column 3, line 25 and 32. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the steps of SEMMENS with the step of using a trowel, as taught by HAZARD, in order to improve adhesion of the concrete to the substrate while also preparing the surface for exterior coatings. In reference to claims 2-5 and 9, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known particle size suitable for the use intended as an obvious matter of design choice. Selection of particle size is particular to the desired volume of the mixture. For instance, mixtures with smaller particle sizes provide shear to lower density. Adjusting particle

size regulates densities, compression, strength, insulation values, and composition weights. Regarding claims 6,7,10, and 11, SEMMENS, teaches applying the concrete by "projection – blowing, column 4, line 41; while HAZARD teaches spreading a concrete material with a trowel. In further reference to claim 8, both SEMMENS and HAZARD teaches the step of allowing the concrete to harden.

Claim 12 stands rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,883,188 to SEMMENS in view of US Patent #6,880,198 to HAZARD, as applied to claim 8 above, and further in view of US Patent #6,046,269 to NASS et al. SEMMENS, as modified by HAZARD, does not detail the use of an accelerant. However, NASS et al. teaches that it is known in the art to provide a concrete mixture with an accelerant - propylene glycol and methyl and carbitol. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the concrete of SEMMENS, as modified by HAZARD, with an accelerant, as taught by NASS et al. in order to speed the drying process.

Claim 13 stands rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,883,188 to SEMMENS in view of US Patent #6,880,198 to HAZARD, as applied to claim 8 above, and further in view of US Patent 4,229,225 to KRASZEWSKI et al. SEMMENS, as modified by HAZARD, does not detail the use of a plasticizer. However, KRASZEWSKI et al. teaches that it is known in the art to provide the concrete of SEMMENS, as modified by HAZARD, mixture with a plasticizer - propylene glycol and methyl and carbitol. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide concrete

with a plasticizer, as taught by KRASZEWSKI et al. in order to provide the concrete with the ability to repel water.

Response to Arguments

Applicant's arguments filed 10/3/05 have been fully considered but they are not persuasive.

Regarding the applicant's argument that HAZARD does not teach forming voids via the troweling process, clearly HAZARD, as noted in the rejection above, details the use of a trowel to apply the compound. The process of troweling is old and very well known in the art. It is known that while scraping of a trowel over a cementitious material, especially a "grainy" cementitious material, some of the "grains" will be or are pulled from the compound and ultimately form voids or small alterations in the surface being formed. Furthermore, the applicant contradicts himself, in that on page 16 of his response, the last paragraph, the applicant readily admits that HAZARD teaches removal of the particles.

In reference to the applicant's argument that HAZARD uses a smooth taping knife and not a rough surface, this is partially true in that HAZARD does disclose the use of a taping knife; however, he discloses the use of a finishing trowel also. Although HAZARD is silent with regard to the type of finishing trowel, it can not be assumed that it is a smooth surface finishing trowel. There are trowels that are designed to form a pattern in the surface of the material being applied. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the type of trowel suitable for the use intended. For instance, if a smooth final surface is

desire, then a smooth trowel would be needed. However, if a rough or patterned surface is need, then perhaps a trowel having a roughened or defined surface would be appropriate, see figure 15 of HAZARD.

Regarding the applicant's argument that HAZARD uses a dust and not a compound that produce particle sizes of at least 1mm, HAZARD is not being provided to teach the material. HAZARD is merely being provided to teach "troweling".

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding HAZARD teaching away from the desired result of claims 2-4, the applicant admits that HAZARD removes particles. Thus, the selection of the size of particles removed and those that are retained is an obvious matter of design choice depending upon the desired outcome. Perhaps larger sized particles will give a more defined external surface; whereas, the removal of smaller particles will present a much smoother surface.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yvonne M. Horton
Art Unit 3635
12/22/05

Carl D. Friedman
Supervisory Patent Examiner
Group 3600